

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

KRZYSZTOF F. WOLINSKI,

Plaintiff,

v.

KERRI M. LAMAS, et al.,

Defendants.

No. 2:23-CV-1467-DJC-DMC-P

ORDER

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to Eastern District of California local rules.

On March 18, 2024, the Magistrate Judge filed findings and recommendations herein which were served on the parties, and which contained notice that the parties may file objections within the time specified therein. No objections to the findings and recommendations have been filed.

The Court has reviewed the file and finds the findings and recommendations to be supported by the record and the Magistrate Judge's analysis. In addition, the Court has reviewed the Magistrate Judge's January 19, 2024 Order (ECF No. 12) which the Court finds is also supported by the record and the proper analysis.

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Accordingly, IT IS HEREBY ORDERED as follows:

1. The findings and recommendations filed March 18, 2024, ECF No. 13, are adopted in full.
2. This action shall proceed on the original complaint, ECF No. 1, on the following claims:
 - a. First Amendment claims against Defendants Lamas and Pender based on alleged retaliatory conduct (first claim).
 - b. Eighth Amendment claims against Defendants Butterfield, Singh, Lamas, and Schultz arising from the alleged use of excessive force on January 25, 2022 (second claim).
 - c. Eighth Amendment medical care claims against Defendants Tran, Osmon, and Nandy (third claim).
3. All claims against Defendant Berumen are DISMISSED with prejudice for failure to state a claim against whom relief can be granted.
4. Plaintiff's due process claim be DISMISSED with prejudice.
5. This matter is referred back to the assigned Magistrate Judge for all further pretrial proceedings.

IT IS SO ORDERED.

Dated: **August 14, 2024**


Hon. Daniel J. Calabretta
UNITED STATES DISTRICT JUDGE